



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 403, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT)	PDC CASE NO: 98-405
ACTION AGAINST)	
)	<u>Amended</u> Notice of
Bob R. Holman, Mayor,)	Administrative Charges
And)	
Bill Verwolf, Administrator,)	
City of Monroe)	
)	
Respondents.)	

IT IS ALLEGED as follows:

I.
JURISDICTION

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Commission, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC.

II.
LAW & DECLARATORY ORDER

RCW 42.17.130 states, in part: "No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency..."

*"The public's right to know of the financing of political campaigns and lobbying
and the financial affairs of elected officials and candidates far outweighs
any right that these matters remain secret and private."*



RCW 42.17.020(3) states: ““Ballot proposition” means any “measure” as defined by RCW 29.01.110, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.” (Emphasis Supplied)

Declaratory Order No. 14 provides an analysis of when and to what extent RCW 42.17.130 and RCW 42.17.190 affect a school district’s ability to engage in activities relating to the support of or opposition to initiatives to the legislature.

The ruling states in part: “To conclude that a measure first becomes an initiative to the legislature after the signatures have been collected and it has been certified by the Secretary of State, would likely permit public resources to be used to promote or oppose the critical signature gathering phase of the process, including having public employees actually collect voter signatures on an initiative petition during working hours. Since such a conclusion would be contrary to the best interests of the public and have the effect of limiting the reach of a statute without any indication that the limitations are warranted or were intended, it is insupportable.”

“Therefore, in the Commission’s opinion, the prohibition in RCW 42.17.190(4) applies during the signature gathering phase as well as the time during which the initiative is pending before the legislature.”

III. **BACKGROUND**

On November 19, 1997, the City of Monroe adopted Ordinance 1118, establishing the powers of the initiative and referendum process for the city. The ordinance took effect on December 1, 1997.

On March 11, 1998, the City of Monroe adopted Ordinance 1130. This ordinance established procedures for requesting an extension of city sewer lines into the Urban Growth Area, and to refer the request to the Boundary Review Board.

On March 16, 1998, a group of citizens requested and obtained from the Monroe City Clerk's office, a referendum number to use for the circulation of petitions to overturn Ordinance 1130.

On March 20, 1998, a complaint was filed with the Public Disclosure Commission alleging that City of Monroe officials violated RCW 42.17.130 when they published a letter discouraging the reader from signing the petition.

The State Constitution allows for the initiative and referendum process. A local ordinance may be enacted by initiative or may be repealed by referendum¹.

IV. **FACTS**

These charges incorporate the Report of Investigation and all exhibits by reference.

On March 11, 1998, the City of Monroe adopted Ordinance 1130. This ordinance established procedures for requesting an extension of city sewer lines into the Urban Growth Area, and to refer the request to the Boundary Review Board, in accordance with the previously adopted Comprehensive Plan. On March 16, 1998, individuals seeking to overturn Ordinance 1130 by

Bob Holman
Bill Verwolf
Notice of Administrative Charges
Page 4

the referendum process received referendum number 98-1130 from the Monroe City Clerk's office. In accordance with RCW 42.17.020(3) Referendum 98-1130 became a ballot proposition when the referendum number was issued which meant the prohibitions of RCW 42.17.130 were immediately applicable.

The referendum sponsors contacted the Monroe City Attorney and asked for input regarding the petition format and text. Based on a suggestion by the City Attorney, the title of the referendum was changed to "*Extension of Sewers Outside City Limits Under Certain Conditions*". The sponsors had petitions printed on March 17, 1998. The City Attorney suggested an additional change to the referendum title on March 18, 1998. This change was not made.

The referendum sponsors then began circulating the petitions and gathering signatures to overturn Ordinance 1130. The petitioners also distributed additional information with the petitions. This information included what was called a "Fact Sheet" explaining why a referendum petition was being circulated, a section entitled "Petition Requirements" and a sheet entitled "THIS REFERENDUM GIVES YOU A VOICE". The additional information encouraged people to sign the petition.

On March 18, 1998 the Monroe City Council met in a work session. Near the conclusion of the work session, the Council adjourned into executive session. As a result of the executive session, Mayor Bob Holman directed Perry Asher, Director of Administrative Services, to draft a letter to be sent to residents of the City of Monroe concerning the petition being circulated to overturn Ordinance 1130. According to Bill Verwolf, Monroe City Administrator, there was a consensus among City Council members to send a letter to residents about the referendum effort and to include the letter in the City's monthly half page article in the Monroe Monitor newspaper.

Perry Asher drafted the letter at the direction of Mayor Holman. Mr. Asher had City Risk Manager Nancy Abel, City Attorney Don Lyderson and City Administrator Bill Verwolf review

the letter prior to its distribution. Bill Verwolf, who is responsible to the Mayor and City Council for the operation of the City, managed the process of sending out the letter and including the letter in the City's monthly newspaper article. The letter was distributed to Monroe residents on March 19, 1998 in a letter entitled *An Important Message to the Citizens of Monroe from Mayor Bob R. Holman and Councilmember Ken Berger.* The letter included three sections entitled "The Issue", "City Accomplishments", and "Our Position". Under "The Issue", the letter discussed the conditions under which the city may wish to permit extension of sanitary sewer to properties outside the current city limits. This section concluded with the following statement: **"As many of you may already know, a petition is now being circulated to subject this ordinance to the referendum process. It is our desire to make sure that the voters of Monroe are fully informed as to the facts of this issue before signing a petition. This petition drive has been initiated by a group calling itself the "Monroe Citizens for Responsible Growth". The leaders of this group and most of its members are not residents of the City of Monroe."**

Under "City Accomplishments" the publication defended the leadership of the Mayor and City Council by listing several positive accomplishments of the City. Under "Our Position" the letter stated the following: **"The Mayor and the City Council believe that the referendum drive to overturn this carefully crafted sewer extension ordinance has the potential of undermining these many accomplishments. Like the process of accomplishing the positive results listed above, this ordinance will give the City the ability to control densities and development standards and will help to control sewer rates to everyone in the City. The higher rates paid those outside the City limits mean that the City can charge less of those that live inside the City limits. If you truly believe it is a bad law or that it will cause more problems than it will solve, there are better ways of expressing your views than signing this petition. This petition drive will only allow outside interests to further their own narrow agenda at the cost of our ability, as your representatives, to make the kind of decisions that have created**

a high quality community. In the final analysis, this is an issue of trust. Do you trust the future of our community to individuals that live outside the City limits or to your duly elected Mayor and City Council? You elected us to make the critical decisions affecting the lives of Monroe citizens. We believe that we are better able to do this than those that live outside our City. We hope you agree."

The City of Monroe had an established practice of communicating with its residents by enclosing a city newsletter or flyer with the monthly water and sewer bill sent to residents, and by using a government access channel on the local television cable system. In this instance, city officials sent a letter about Referendum Number 98-1130 in a separate mailing. The letter was mailed to 3,912 residents, using the City's normal mailing list, at a cost of \$1,180.61. The letter was also made available at City Hall and other city facilities as a handout.

The City of Monroe also used half page monthly newspaper advertisements to communicate with the public about various issues and upcoming events. On Friday, March 20, 1998, the City of Monroe placed an advertisement in the Monroe Monitor at a cost of \$327.60 for publication on March 25, 1998. The advertisement included the letter previously sent to city residents concerning Referendum 98-1130 entitled "An Important Message to the Citizens of Monroe from Mayor Bob R. Holman and the Monroe City Council". The letter also contained the brief statement "Mayor Bob Holman and the Monroe City Council mailed a letter to every household in the City last week on the City's sewer extension ordinance." City Administrator Bill Verwolf approved including the letter in the newspaper advertisement. City Administrator Bill Verwolf acknowledged that the timing of the newsletter was accelerated to provide an alternative discussion of ordinance 1130 and its impact.

On April 16, 1998, The Snohomish County Auditor validated the signatures for Referendum 98-1130, and returned the petitions to the City of Monroe. On May 13, 1998, the Monroe City Council considered its options for dealing with Referendum 98-1130. City Attorney Lyderson

Bob Holman
Bill Verwolf
Notice of Administrative Charges
Page 7

clarified the City Council's options, and after a discussion, the Council voted 6 to 1 in a straw vote that Ordinance 1130 was administrative in nature, rather than legislative, and not subject to the referendum process.

Neither the letter sent March 19, 1998 by the City of Monroe or the City's advertisement on March 25, 1998 informed the citizens of Monroe that Ordinance 1130 was, or might be, administrative in nature and not subject to the referendum process. The City Council determined that Ordinance 1130 was not subject to the referendum process after the referendum signatures had been gathered by local citizens and validated by the Snohomish County Auditor.

V.

CONCLUSION

Staff alleges, based on the facts specified in Section IV, that Bob R. Holman, Mayor, City of Monroe, and Bill Verwolf, Administrator, City of Monroe, violated RCW 42.17.130 by using, or authorizing the use of, public facilities to oppose Referendum 98-1130, a ballot proposition under RCW 42.17, by sending a letter to residents of the City of Monroe, and by including a letter in a newspaper advertisement, opposing Referendum 98-1130. Mayor Holman and City Administrator Verwolf used public facilities to oppose Referendum 98-1130 during the critical signature-gathering phase of the process.

RESPECTFULLY SUBMITTED this 11th day of April, 2000.

Susan Harris

Susan Harris
Assistant Director
Compliance and Enforcement

¹ Included in a report issued by the Municipal Research and Services Center of Washington, February 1994.